

**IN UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

SHERMAN DIVISION

DATE: 6/12/2020

DISTRICT JUDGE
Amos L. Mazzant, III

COURT REPORTER: Jan Mason
COURTROOM DEPUTY: Karen Sessions

J&J SPORTS PRODUCTION, INC.	
V.	4:18-CV-310
JAMES E. KIRKPATRICK, Individually, and d/b/a ANCHOR UP, and d/b/a ANCHOR UP CLUB,m and /b/a ANCHOR'S UP BAR and d/b/a ANCHOR UP ISLAND SHUTTLE	

ATTORNEYS FOR PLAINTIFF	ATTORNEYS FOR DEFENDANT
David Diaz and Thomas P. Riley	Michael Wynne

On this day, came the parties by their attorneys and the following proceedings were held in Sherman, TX:

TIME:	MINUTES: Bench Trial - Day 1
9:05 a.m.	Court in session. Court notes appearances.
	Opening statements waived. Pretrial Order signed.
9:07 a.m.	Defendant's counsel, Michael Wynne presents pretrial matter regarding corporate representative and requests Affidavit of Mr. Riley be stricken.
9:11 a.m.	Plaintiff's counsel, David Diaz, addresses designation of Mr. Riley as an expert witness.
9:12 a.m.	Defendant's counsel, Michael Wynne, responses regarding disclosure of expert witness.
9:16 a.m.	Court grants Motion to strike Mr. Riley as an expert witness and states Mr Riley can testify as a fact witness.
9:17 a.m.	Court reminds the parties that all exhibits are conditionally admitted unless there is an objection but the exhibit must be utilized with a witness.
9:19 a.m.	Plaintiff's counsel, David Diaz, calls Aaron Bucy. Witness Bucy placed under oath. Mr. Diaz begins direct examination of Aaron Bucy.
9:25 a.m.	Plaintiff's counsel, David Diaz refers witness to Plaintiff's Exhibit 19.

9:27 a.m.	Witness Bucy identifies blank affidavit form.
9:29 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 20.
9:33 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 21.
9:34 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 22.
9:35 a.m.	Defendant's counsel, Michael Wynne, objections to question of witness. Court instructs Plaintiff's counsel, David Diaz, to rephrase the question.
9:37 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 23.
9:38 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 24.
9:40 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 17.
9:40 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 18.
9:41 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 3.
9:45 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 4.
9:49 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 5 - Video shown in courtroom. Witness questioned regarding video.
9:55 a.m.	Plaintiff's counsel, David Diaz, refers witness back to Plaintiff's Exhibit 3.
10:00 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 13.
10:03 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 14.
10:04 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 28.
10:05 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 15.
10:06 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 16.
10:07 a.m.	Plaintiff's counsel, David Diaz, refers witness back to Plaintiff's Exhibit 17.
10:09 a.m.	Defendant's counsel, Michael Wynne, begins cross examination of Aaron Bucy

10:12 a.m.	Defendant's counsel, Michael Wynne, refers witness to Defendant's Exhibit 1.
10:15 a.m.	Defendant's counsel, Michael Wynne, refers witness to Plaintiff's Exhibit 13.
10:16 a.m.	Defendant's counsel, Michael Wynne, refers witness to Plaintiff's Exhibit 28.
10:17 a.m.	Defendant's counsel, Michael Wynne, refers witness to Plaintiff's Exhibit 14.
10:19 a.m.	Defendant's counsel, Michael Wynne, refers witness to Plaintiff's Exhibit 15.
10:20 a.m.	Defendant's counsel, Michael Wynne, refers witness to Plaintiff's Exhibit 16.
10:21 a.m.	Defendant's counsel, Michael Wynne, refers witness to Plaintiff's Exhibit 21
10:23 a.m.	Defendant's counsel, Michael Wynne, refers witness to Plaintiff's Exhibit 22.
10:24 a.m.	Defendant's counsel, Michael Wynne, refers witness to Plaintiff's Exhibit 3.
10:28 a.m.	Defendant's counsel, Michael Wynne, refers witness to Defendant's Exhibit 1.
10:31 a.m.	Defendant's counsel, Michael Wynne, refers witness to Defendant's Exhibit 4.
10:32 a.m.	Defendant's counsel, Michael Wynne, refers witness to Defendant's's Exhibit 6.
10:33 a.m.	Defendant's counsel, Michael Wynne, refers witness to Plaintiff's Exhibit 5 (video).
10:40 a.m.	Defendant's counsel, Michael Wynne, refers witness to Defendant's Exhibit 5.
10:41 a.m.	Court recess for 15 minutes.
10:57 a.m.	Court reconvened. Defendant's counsel, Michael Wynne, resumes examination of Aaron Bucy.
10:58 a.m.	Plaintiff's counsel, David Diaz, begins re-direct examination of Aaron Bucy.
11:02 a.m.	Plaintiff's counsel, David Diaz, refers witness to Defendant's Exhibit 1.
11:03 a.m.	Plaintiff's counsel, David Diaz, refers witness to Defendant's Exhibit 5 (video).
11:05 a.m.	Defendant's counsel, Michael Wynne, objects to question. Court sustains objection.

11:06 a.m.	Witness excused.
11:07 a.m.	Plaintiff's counsel, David Diaz, calls Thomas Riley. Witness Thomas Riley placed under oath. Plaintiff's counsel, David Diaz, begins direct examination of Thomas Riley.
11:13 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 1.
11:24 a.m.	Defendant's counsel, Michael Wynne, objects to witness offering opinion. Court sustains objection.
11:27 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 6.
11:44 a.m.	Defendant's counsel, Michael Wynne, objects to witness offering opinion. Court sustains objection.
11:46 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 2. Defendant's counsel, Michael Wynne, objects to Plaintiff's Exhibit 2. Mr. Diaz allowed to proceed to prove up document and examines witness on Plaintiff's Exhibit 2. Mr. Wynne renews hearsay objection. Court overrules the objection and Plaintiff's Exhibit 2 is admitted.
11:51 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 3.
11:53 a.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 1.
11:54 a.m.	Plaintiff's counsel, refers witness to Plaintiff's Exhibit 5 (video). Defendant's counsel, Michael Wynne, objects to witness commenting on video. Court conditionally allows showing Plaintiff's Exhibit 5 (video) and witness answering questions. Video is played.
12:00 p.m.	Court recesses for lunch until 1:00 p.m.
1:00 p.m.	Court reconvenes. Plaintiff's counsel, David Diaz, resumes direct examination of Witness Thomas Riley.
1:02 p.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 13, 28, 14, 15, 16, for reference.
1:03 p.m.	Defendant's counsel, Michael Wynne, objects to witness offering opinion. Court sustains objection and directs Mr. Diaz to rephrase the question. Direct examination continues.
1:05 p.m.	Defendant's counsel, Michael Wynne, objects to witness offering opinion. Court sustains objection. Mr. Diaz addresses the Court. Mr. Diaz resumes direct examination.
1:11 p.m.	Defendant's counsel, Michael Wynne, objects to relevancy of question. Court sustains objection. Mr. Diaz passes the witness.
1:12 p.m.	Defendant's counsel, Michael Wynne, begins cross examination of Witness Thomas Riley.

1:15 p.m.	Defendant's counsel, Michael Wynne, refers witness to Plaintiff's Exhibit 1.
1:20 p.m.	Plaintiff's counsel, David Diaz, begins re-direct examination of Witness Thomas Riley.
1:23 p.m.	Defendant's counsel, Michael Wynne, objects to expert testimony. Court tells Mr. Diaz to continue.
1:27 p.m.	The Court questions Thomas Riley.
1:29 p.m.	Witness excused. Plaintiff rests.
1:30 p.m.	Defendant's counsel, Michael Wynne, calls Heather Douglas. Witness placed under oath. Defendant's counsel, Michael Wynne, begins direct examination of Heather Douglas.
1:39 p.m.	Defendant's counsel, Michael Wynne, passes the witness. Plaintiff's counsel, David Diaz, begins cross examination of Witness Heather Douglas.
1:41 p.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 29.
1:44 p.m.	Witness excused.
1:45 p.m.	Defendant's counsel, Michael Wynne, calls Nelda Davis. Witness placed under oath. Defendant's counsel, Michael Wynne, begins direct examination of Nelda Davis.
1:49 p.m.	Defendant's counsel, Michel Wynne, passes the witness.
1:50 p.m.	Plaintiff's counsel, David Diaz, begins cross examination of Nelda Davis.
1:52 p.m.	Defendant's counsel, Michael Wynne, objects as to speculation. Court overrules objection. Cross examination continues.
1:59 p.m.	Witness excused.
2:00 p.m.	Defendant's counsel, Michael Wynne, calls Kristen Zemlicka. Witness placed under oath. Defendant's counsel, Michael Wynne, begins direct examination of Kristen Zemlicka.
2:04 p.m.	Plaintiff's counsel, David Diaz, begins cross examination of Kristen Zemlicka.
2:06 p.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 29.
2:09 p.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 5 (video).
2:12 p.m.	Witness excused.

2:13 p.m.	Defendant's counsel, Michael Wynne, calls James Kirkpatrick. Witness placed under oath. Defendant's counsel, Michael Wynne, begins direct examination of James Kirkpatrick.
2:27 p.m.	Plaintiff's counsel, Davis Diaz, objects to question as hearsay. Court overrules objection. Michael Wynne passes the witness.
2:30 p.m.	Plaintiff's counsel, David Diaz, begins cross examination of James Kirkpatrick. Mr. Diaz refers to Plaintiff's Exhibit 11.
2:35 p.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 29.
2:42 p.m.	Plaintiff's counsel, David Diaz, refers witness to Plaintiff's Exhibit 5 (video) and Plaintiff's Exhibit 29 together.
2:50 p.m.	Defendant's counsel, Michael Wynne, begins re-direct examination of James Kirkpatrick.
2:52 p.m.	Plaintiff's counsel, David Diaz, begins re-cross examination of James Kirkpatrick.
2:53 p.m.	Witness excused. Defense rests. Plaintiff's counsel, David Diaz, states he will file trial brief.
2:54 p.m.	Plaintiff's counsel, David Diaz, makes closing argument.
3:04 p.m.	Defendant's counsel, Michael Wynne, makes closing argument.
3:10 p.m.	Court gives Plaintiff and Defendant time frame for filing briefs.
3:15 p.m.	Court adjourned.

DAVID O'TOOLE, CLERK

BY: Karen Sessions
Courtroom Deputy Clerk